IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

WP(C).No. 26268 of 2007()

RCP.20/2006 AND RCP.21/2006 of ADDL.M.C.,KOZHIKODE-II
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PETITIONERS:
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1. SMT. SAGUNA, W/O. JAYAPALAN,
THACHAMBALATH HOUSE, NELLALAM, KOZHIKODE.

2. SUJITH, S/O. JAYAPALAN,
THACHAMBALATH HOUSE, NALLALAM, KOZHIKODE.

3. SHYJITH, S/O. JAYAPALAN,
THACHAMBALATH HOUSE, NALLALAM, KOZHIKODE.

BY ADV. SRI.RESMI DAMODARAN.

RESPONDENTS:
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1. BALAKRISHNAN, S/O. GOPALAN,
23/415, NEAR VATTAKINAR JUNCTION, P.O.ARTS AND
SCIENCE COLLEGE, MEENCHANDA, KOZHIKODE.

2. ABDUL JABBAR, S/O. MOIDEENKOYA,
23/414, NEAR VATTAKINAR JUNCTION, P.O.ARTS AND
SCIENCE COLLEGE, MEENCHANDA, KOZHIKODE.

BY ADV. SRI.K.M.FIROZ (FOR R1)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF THE I.A. NO.3112 OF 2007 IN R.C.P. NO.21/2006 DATED 20.8.2007 FILED BEFORE THE MUNSIFF COURT, KOZHIKODE.

EXT. P1(A): COPY OF THE I.A. NO.3109/2007 IN R.C.P. NO.20 OF 2006 DATED 20.8.2007 FILED BEFORE THE MUNSIFF COURT, KOZHIKODE.

/TRUE COPY/

P.A. TO JUDGE

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K.BALAKRISHNAN NAIR &

T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) NO. 26268 OF 2007-B

Dated 25th September, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioners herein are the petitioners in R.C.P Nos.21 & 20/2006 on the files of the Rent Controller, Kozhikode. They seek eviction of rooms bearing door Nos.23/414 and 23/415 of Kozhikode Corporation. The said cases were listed for trial on 6.9.2007 and 4.9.2007 respectively. The petitioners filed I.A.Nos.3112 & 3109/2007 in them, praying to order joint trial of those two cases. Exts.P1 and P1(a) are the copies of the said I.As. They were heard and rejected by the Rent Controller. The order in I.A.No.3109/2007 reads as follows:

> "Respondent is not party in the other petition and that the application for joint trial filed with an intention to make use of the CR in the other case in this petition also. As the respondents are different and the respondents in this matter is not willing for a joint trial, I am of the view that joint trial need not be allowed. Hence the petition is dismissed. No cost."

The order in I.A.No.3112/2007 reads as follows:

> "Joint trial with RCP 20/06 sought for. In RCP 20/06 also an application for joint trial, I.A.3109/07 was filed. Finding that a joint trial is not required in the matter, the said petition was dismissed. Hence this petition also is dismissed."

This writ petition is filed, challenging those orders. The petitioners submit, serious inconvenience is caused by the refusal of the Rent Controller to hold the trial jointly. Same evidence will have to be tendered twice. Therefore, the orders are liable to be interfered with, having regard to the inconvenience caused to the petitioners. The commissioner's report and plan are common, it is pointed out.

2. We heard the learned counsel for the respondents also. This Court can interfere with an order under Article 227 of the Constitution of India only on limited grounds. If the order is within jurisdiction, this Court should keep its hands off, even if a different view or better view is possible. We feel that no serious prejudice is caused to the petitioners by the separate trial of the cases. Therefore, we cannot interfere with the orders of the Rent Controller under Article 227 of the Constitution of India. Accordingly, the

writ petition fails and it is dismissed.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Nm/